

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BRIAN JOSEPH ARNOLD,

Defendant-Appellant.

UNPUBLISHED

April 30, 1999

No. 205661

Bay Circuit Court

LC No. 94-001274 FH

Before: Kelly, P.J., and Neff and Smolenski, JJ.

MEMORANDUM.

Defendant originally pleaded guilty to breaking and entering an occupied dwelling with intent to commit larceny, MCL 750.110; MSA 28.305, and was sentenced to five years' probation. Defendant later pleaded guilty to violating the terms of his probation, and he was resentenced to five to fifteen years' imprisonment, with 118 days of credit for jail time served. Defendant now appeals by right, and we affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant argues that he is entitled to resentencing because the trial court did not sufficiently articulate the reasons for the sentence imposed and because the sentence imposed is disproportionate. We disagree.

When imposing sentence, the trial court discussed defendant's admittedly lengthy past record, the seriousness of the circumstances surrounding the underlying breaking and entering offense, and defendant's failure to cooperate while on parole as well as on probation in two counties. Contrary to defendant's argument, this articulation satisfies the trial court's obligation to state the criteria considered and reasons in support of the length and nature of the punishment imposed. See *People v Terry*, 224 Mich App 447, 455-456; 569 NW2d 641 (1997).

Defendant's five-year minimum sentence is not a disproportionately harsh response to the circumstances surrounding the offense and the offender. Defendant's citation to his original sentencing guidelines calculation hardly supports his challenge to the proportionality of his sentence. Although the sentencing guidelines have no application to probation violation sentences, we note that defendant's presumptively proportionate guidelines sentence range, calculated according to defendant's record prior

to the additional aggravating circumstances of his probation and parole misconduct, already provided for a minimum prison sentence of up to four years. Moreover, we note that defendant's five-year minimum sentence is only half the length of the harshest possible sentence reserved for only the most serious of offenses and offenders.

Affirmed.

/s/ Michael J. Kelly

/s/ Janet T. Neff

/s/ Michael R. Smolenski